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**THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

UNITED STATES OF AMERICA,

Plaintiff,

v.

VIVINT SMART HOME, INC., a corporation,

Defendant.

**Case No. 2:21-cv-00267-TS**

**STIPULATED ORDER FOR  
PERMANENT INJUNCTION AND  
CIVIL PENALTY JUDGMENT**

**Judge Ted Stewart**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Civil Penalties, Permanent Injunction and Other Equitable Relief (“Complaint”), pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), and Section 621(a) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681s(a). Defendant has waived service of the summons and the Complaint. Plaintiff and Defendant stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil

Penalty Judgment (“Order”) to resolve all matters in dispute in this action, and including potential action by the Plaintiff under § 19(a)(2) of the FTC Act, between them.

THEREFORE, IT IS ORDERED as follows:

### FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendant participated in acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, the FCRA, 15 U.S.C. §§ 1681–1681x, and the Duties Regarding the Detection, Prevention, and Mitigation of Identity Theft (“Red Flags Rule”), 16 C.F.R. § 681, issued pursuant to Section 615(e) of the FCRA, 15 U.S.C. §1681m(e).
3. Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish the Court’s jurisdiction.
4. Defendant waives any claim that it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear its own costs and attorney fees.
5. Defendant and Plaintiff waive all rights to appeal or otherwise challenge or contest the validity of this Order.

### DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. “**Consumer Report**” means any written, oral, or other communication of any information by a Consumer Reporting Agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living

which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes; (2) employment purposes; or (3) any other purpose authorized under FCRA Section 604, 15 U.S.C. § 1681b.

B. **“Consumer Reporting Agency” or “CRA”** means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing Consumer Reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing Consumer Reports.

C. **“Defendant”** means Vivint Smart Home, Inc., a Delaware corporation, and its successors and assigns.

D. **“White Paging”** means qualifying potential customers for financing by utilizing the credit history of an unrelated individual with a same or similar name, without that individual's express written permission.

E. **“Impermissible Co-Signing”** means adding individuals on an account without their express written permission.

## ORDER

### I. PROHIBITED BUSINESS ACTIVITIES

IT IS ORDERED that Defendant, Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any good or service, are permanently restrained and enjoined from failing to

establish and maintain a written Identity Theft Prevention Program (“ITP Program”) that is designed to detect, prevent, and mitigate identity theft in connection with “Covered Accounts” in contravention of 16 C.F.R. § 681.1 (“Red Flags Rule”), including, but not limited to:

- A. Failing to conduct periodic assessments to determine whether the Defendant offers “Covered Accounts” within the meaning of the Red Flags Rule;
- B. Failing to administer the ITP Program in accordance with the Red Flags Rule, including obtaining approval for the ITP Program from the board of directors; and
- C. Failing to consider and include in the ITP Program all appropriate guidelines provided in Appendix A to the Red Flags Rule.

## **II. ADDITIONAL PROHIBITED BUSINESS ACTIVITIES**

IT IS FURTHER ORDERED that Defendant, Defendant’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any good or service, are permanently restrained and enjoined from: (1) obtaining Consumer Reports from CRAs without a permissible purpose in contravention of Section 604(f) of the FCRA (15 U.S.C. § 1681b(f)); (2) selling, transferring, or placing for collection any debt on an account on which it knows or has reason to believe that White Paging or Impermissible Co-Signing has occurred; and (3) furnishing information about such debt to the CRAs.

## **III. CUSTOMER SERVICE TASK FORCE**

IT IS FURTHER ORDERED that, within thirty (30) days of entry of this Order, Defendant must establish and maintain for five years, a Customer Service Task Force Program.

To satisfy this requirement, Defendant must, at a minimum:

- A. Designate a qualified employee to coordinate and be responsible for the Customer Service Task Force (“Coordinator”), who must be approved by and report directly to the board of directors or a committee thereof;
- B. For all debt sold to a debt buyer between January 1, 2016 and the entry of this Order, for all accounts whose file references more than one address or includes a co-signer, and prior to (1) attempting to collect any debt, (2) referring any account to a debt collector, (3) selling any debt to a debt buyer, or (4) reporting any debt to a consumer reporting agency (CRA), take reasonable steps to verify every name and address included with the account to confirm that the individual is properly included within the account, and require the Coordinator to certify, under penalty of perjury, that those reasonable steps were taken for each such account.
- C. On the homepage of Vivint.com, provide a prominent link to a dedicated Identity Theft Customer Service page, which will have contact information (including telephone, e-mail address, and physical mail address), for consumers to use to provide notice to Defendant of any identity theft associated with a Vivint account, including but not limited to identity theft associated with White Paging or Impermissible Co-Signing.
- D. Upon receipt of any notice described in Provision III.C above, through any means, immediately suspend any effort to collect any debt on that account, from any individual associated with the account, for no less than sixty (60) days. For accounts that were already referred to or sold to a third-party, Defendant must immediately demand that such third-party suspend collection for at least sixty (60) days. For any sale of debt to a third-party debt buyer or debt collector after the date of this order, Defendant must have contractual provisions requiring

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